

**Department of State Health Services**  
**Agenda Item for State Health Services Council**  
**January 12/13, 2006**

**Agenda Item Title:** Repeal of 25 TAC §265.11 and §§265.13 - 265.27 and new §265.11 and §§265.13 - 265.29, Texas Youth Camps Safety and Health rules.

**Agenda Number:** 3c

**Recommended Council Action:**

☐ For Discussion Only

☒ For Discussion and Action by the Council

**Background:** The repeal of current rules and adoption of new rules are necessitated by substantive changes made to the youth camp rules, which includes changes necessitated by Health and Safety Code (HSC) §§141.002(2), 141.002(5), and 141.005(a); HSC §141.0021; HSC §§141.0035, 141.004(a), and 141.005(b); HSC §141.0096; and HSC §§141.007(d), (e), (f), and (g); 141.008(a); 141.010; and 141.016(c); and by Government Code, Chapter 2054, Subchapter K; and Government Code §2001.039.

**Summary:** Substantial changes from the previous rules include reestablishment of the Advisory Committee; establishment of a Training Advisory Committee; updated definitions of camps and the general characteristics of a youth camp; and clearer requirements of the responsibilities of camp personnel as well as physical facilities, updated to reflect current state statutes and accepted national standards. It also includes an enforcement matrix establishing a severity level for deficiencies identified by the department.

**Summary of Stakeholder Input to Date (including advisory committees):** Meetings of the Advisory Committee and the Training Advisory Committee were held on October 31, 2005. Both committees recommend publication and adoption of the proposed rules.

**Proposed Motion:** Motion to recommend HHSC approval for publication in the *Texas Register* for a 30 day comment period of rules contained in agenda item #3c.

**Agenda Item Approved by:** Rick Bays

**Presented by:** Michael J. Minoia. **Title:** Sanitarian III

**Program/Division:** Environmental Health Group **Contact Name/Phone:** Michael J. Minoia  
(512) 834-6770 Ext. 2305

**Date  
Submitted**

11/30/05

Title 25. HEALTH SERVICES  
Part 1. DEPARTMENT OF STATE HEALTH SERVICES  
Chapter 265. General Sanitation  
Subchapter B. Texas Youth Camps Safety and Health  
Repeal §265.11 and §§265.13 - 265.27  
New §265.11 and §§265.13 - 265.29

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes the repeal of §265.11 and §§265.13 - 265.27, and new §265.11 and §§265.13 - 265.29, concerning the health and safety of Texas youth camps.

BACKGROUND AND PURPOSE

The repeal and new sections are necessary to accommodate needed revisions as outlined. Health and Safety Code (HSC), §§141.002(2), 141.002(5), and 141.005(a), redefined “day camp” and “youth camp”, and changed the renewal date for licenses.

HSC, §141.0021, exempted a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education; HSC, §§141.0035, 141.004(a), and 141.005(b), eliminated statutory license fees and required the Texas Board of Health (board) to establish the amount of the fee for obtaining or renewing a license, and required the board to solicit comments and information from the operators of affected youth camps; HSC, §§141.007(d), (e), (f), and (g); 141.008(a); 141.010; and 141.016(c), changed inspection procedures for infractions found during inspections which are easily corrected, reestablished the Youth Camp Advisory Committee, and changed the administrative penalty.

HSC, §141.0096, established the Youth Camp Training Advisory Committee.

Government Code, Chapter 2054, Subchapter K, requires the department to participate in an electronic system for licensing transactions (Texas Online) and to establish fees for licensees.

Government Code, §2001.039, requires that each state agency review and consider for readoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 265.11 and 265.13 - 265.27 have been reviewed and the department has determined that reasons for adopting the sections continue to exist because rules on this subject are needed.

SECTION-BY-SECTION SUMMARY

New §265.11 updates the definitions used in the chapter, including more clearly defining the types of camps and the general characteristics of a youth camp. Sections 265.13 and 265.14 more clearly define the physical facilities required of a youth camp, updated to reflect current state statutes and accepted national standards. The requirement to report to the department incidents of camper neglect or abuse, or the death, serious injury or serious illness of a camper has been strengthened and clarified in §265.15. Sections 265.15 and 265.16 update requirements

for waterfront activities and potentially hazardous camp activities, adding sections dealing with horseback riding programs and adventure/challenge courses. Sections 265.17 - 265.21 deal with Fire Prevention, Motor Vehicles, Farm and Domestic Animals, and Insect and Rodent Control respectively. Sections 265.23 and 265.24 provide the procedures for obtaining a youth camp license. Section 265.25 outlines procedures for inspections, including changing inspection procedures for infractions found during inspections which are easily corrected. Civil penalties and injunctions are outlined in §265.26. Section 265.27 deals with revocation of a license, administrative penalties, and hearing procedures. This section also includes an enforcement matrix establishing a severity level for deficiencies identified by the department. The assignment of a severity level, ranked as Severity Level I, II, or III, is based upon determination of risk to the camper of injury. Section 265.28 deals with licensing fees. Membership requirements and responsibilities of the Youth Camp Advisory Committee and the Youth Camp Training Advisory Committee are explained in §265.29.

#### FISCAL NOTE

Susan E. Tennyson, Section Director, Environmental and Consumer Safety Section, has determined that for each year of the first five-year period that the sections will be in effect, there will be no fiscal implications to state or local governments as a result of enforcing and administering the sections as proposed.

#### SMALL AND MICRO-BUSINESS IMPACT

Ms. Tennyson has also determined that there are no anticipated economic costs to small businesses or micro-businesses required to comply with the sections as proposed. This determination was made by an interpretation of the rules that small businesses and micro-businesses will probably not be required to alter their business practices significantly, since these rules reflect current camping business practices and insurance requirements. There is no anticipated increase in economic costs to individuals employed by a youth camp. There is no anticipated negative impact on local employment.

#### PUBLIC BENEFIT

In addition, Ms. Tennyson has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections would be increased protection for campers and staff against disease transmission, accidents, and injuries.

#### REGULATORY ANALYSIS

The department has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety

of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

## TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

## PUBLIC COMMENT

Comments on the proposal may be submitted to Michael J. Minoia, Environmental Health Group, Policy/Standards/Quality Assurance Unit, Environmental and Consumer Safety Section, Division of Regulatory Services, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/834-6770, extension 2305 or by email to Michael.Minoia@dshs.state.tx.us. Comments will be accepted if received within 30 days following publication of the proposal in the Texas Register.

## PUBLIC HEARING

A public hearing to receive comments on the proposal is scheduled to be held during the official 30-day comment period at the Department of State Health Services, Room K-100, 1100 West 49th Street, Austin, Texas 78756. The hearing will be held from 9:00 a.m. to 12:00 p.m. on February 10, 2005. For information, please contact Michael J. Minoia at 512/834-6770, extension 2305.

## LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Cathy Campbell, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

## STATUTORY AUTHORITY

The proposed repeal and new sections are authorized by Health and Safety Code, §141.008, which authorizes the department to adopt rules; Government Code, Chapter 2054, that requires the department to participate in an electronic system for licensing transactions (Texas Online) and to establish fees for licensees; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Chapter 1001, Health and Safety Code.

The proposed repeal and new sections affect the Health and Safety Code, Chapters 141, and 1001; Government Code, Chapter 531; and implements Government Code, §2001.039.

Sections for Repeal.

- §265.11. Definitions.
- §265.13. Site and Physical Facilities.
- §265.14. Primitive or Wilderness Camp.
- §265.15. Medical and Nursing Care.
- §265.16. Waterfront Safety.
- §265.17. Recreational Safety and Equipment.
- §265.18. Fire Prevention.
- §265.19. Maintenance and Safe Use of Motor Vehicles.
- §265.20. Farm and Domestic Animals.
- §265.21. Insect and Rodent Control.
- §265.22. Variance.
- §265.23. Time Periods for Processing Applications for Youth Camp Licenses.
- §265.24. Renewal and Nonrenewal of Licenses.
- §265.25. Administrative Penalties.
- §265.26. Nudity Prohibited.
- §265.27. Fees.

Legend: (Proposed New Rule)  
Regular Print = Proposed new language

§265.11. Definitions. The following words and terms, when used in this chapter shall have the following meanings, unless the content clearly indicates otherwise.

- (1) Act -- Texas Youth Camp Safety and Health Act, Health & Safety Code, Chapter 141.
- (2) Adult -- A person 18 years of age or older.
- (3) Camper -- A minor child, under 18, who is attending a youth camp on either a day or boarding basis.
- (4) Commissioner -- The Commissioner of the Department of State Health Services.
- (5) Day camp -- A camp that operates during the day or any portion of the day between 7:00 a.m. and 10:00 p.m. for four or more consecutive days and that offers no more than two overnight stays during each camp session. To be eligible to be licensed as a youth camp, the camp's schedule must be structured so that each camper attends for more than four hours per day for four consecutive days. The term does not include a facility that is required to be licensed with the Department of Family and Protective Services (formerly the Department of Protective and Regulatory Services).
- (6) Department -- The Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3199.
- (7) Executive Commissioner -- Executive Commissioner of the Health and Human Services Commission.
- (8) Firearm -- Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or a burning substance, or any device readily convertible to that use.
- (9) Hazardous activity -- A camp activity such as waterfront activities, archery, horseback riding, challenge courses, or riflery that requires special technical skills, equipment, or safety regulations.
- (10) Pellet gun -- Any device designed, made, or adapted to expel a projectile through a barrel by using compressed air or carbon dioxide. This definition includes, but is not limited to, air guns, air rifles, BB guns, and paintball guns.
- (11) Permanent structure -- Man-made buildings such as dining halls, dormitories, cabins, or other buildings that are constructed to remain stationary.

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(12) Person -- An individual, partnership, corporation, association, or organization. In these rules, a person does not include a government or governmental subdivision.

(13) Primitive camp -- A youth camp that does not provide either permanent structures or utilities for camper use.

(14) Resident camp -- A camp that for a period of four or more consecutive days continuously provides residential services to each camper, including overnight accommodations for at least three consecutive nights.

(15) Supervisor/counselor -- Camp personnel or youth group leader, 18 years of age or older, who is responsible for the immediate supervision of campers.

(16) Travel camp -- A day or resident camp, lasting for four or more consecutive days, that begins and ends at a fixed location, but may move from location to location on a daily basis.

(17) TCEQ -- Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, telephone 512-239-1000.

(18) Waterfront -- A natural, or artificial body of water that includes, but is not limited to, a lake, ocean, bay, pond, river, swimming pool, or spa, which is the site of any water activity.

(19) Waterfront activity -- A recreational or instructional activity, occurring in, on, or near a waterfront. Waterfront activity includes, but is not limited to, swimming, boating, water skiing, scuba diving, rafting, tubing, synchronized swimming or sailing.

(20) Youth camp -- A facility or property, other than a facility required to be licensed by the Department of Family and Protective Services that:

(A) has the general characteristics of a day camp, resident camp, or travel camp;

(B) is used for recreational, athletic, religious, or educational activities;

(C) accommodates at least five minors who attend or temporarily reside at the camp for all or part of at least four consecutive days; and

(D) is not a facility or program operated by or on the campus of an institution of higher education or a private or independent institution of higher education as those terms are defined by the Education Code, §61.003, that is regularly inspected by one or more local governmental entities for compliance with health and safety standards.

(21) Youth camp, general characteristics of:

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(A) a youth camp provides supervision, instruction, and recreation, utilizing a variety of activities primarily in an outdoor, natural environment, for children who are apart from their parents or legal guardians;

(B) a youth camp operates during school vacation periods, and not more than 120 days per calendar year; and

(C) a youth camp accepts a camper for a minimum of four consecutive days for more than four hours per day.

(22) Youth camp operator -- Any person who owns, operates, controls, or supervises a youth camp, whether or not for profit.

#### §265.13. Site and Physical Facilities.

(a) Safety of the location. The location of a camp shall not present a fire, health, or safety hazard.

(b) Accumulation of refuse and debris. The premises of each camp shall be kept free of accumulations of refuse and debris.

(c) Compliance with building, plumbing, electrical and life safety codes. All camp buildings shall comply with applicable building, plumbing, electrical, life safety, and similar codes.

(d) Permanent living or sleeping structures. All permanent structures used for living or sleeping purposes in the camp shall be provided with walls, floors, and ceilings that shall be kept clean and in good repair.

(e) Separate beds, bunks or cots. A separate bed, bunk, or cot shall be required for each person. Beds shall be spaced in a manner that is free of obstruction for entering and exiting.

(f) Bunk bed guardrails. In all rooms housing campers, all bunk beds shall have at least two guardrails, one on each side of the bed for each bed having the underside of its foundation more than 30 inches from the floor in accordance with the Code of Federal Regulations (CFR), 16 CFR, Part 1513.3. Bunk beds securely attached to a wall may utilize the wall as one guardrail.

(g) Location of sleeping quarters. Sleeping shall not be permitted in kitchens or in rooms used for food preparation, storage, or service.

(h) Bedding provided by the camp. All articles of bedding provided by the camp, including mattresses and mattress covers, shall be kept clean and in good repair. Any bedroll

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provided by the camp and used by campers must be properly cleaned between use by different individuals.

(i) Toilets and urinals. The camp shall provide at least one toilet for every 15 females and one toilet for every 15 males. In each male toilet facility, up to 70% of the toilets required may be urinals. In facilities with more than one toilet, some means of privacy must be provided for each toilet.

(j) Lavatories. The camp shall provide at least one lavatory adjacent to toilet facilities. In facilities with more than five toilets or urinals in a room, there must be a minimum of two lavatories.

(k) Hand cleanser required. Each lavatory must be equipped with one of the following methods to sanitize hands:

(1) lavatories with hot and cold running water must have soap or hand cleanser available at all times;

(2) lavatories with only cold running water must have hand sanitizer or antibacterial soap available at all times; or

(3) privies and portable toilet facilities not equipped with lavatories providing water must have waterless hand sanitizer available at all times.

(l) Shower facilities. Resident youth camps must provide at least one shower for every 15 females and one shower for every 15 males. Each shower shall be equipped with water to meet the needs of the campers. There shall be soap or body cleanser available at all times.

(m) Cleanliness and sanitation of toilets, lavatories and bathing facilities. All toilets, lavatories, and bathing facilities shall be maintained in good repair and kept clean at all times. Every shower room floor shall be washed daily with a suitable detergent or sanitizing agent.

(n) Construction of privies. Privies, if provided, shall be constructed according to standards set forth in the Texas Community Sanitation Handbook, which may be obtained from the department by calling the Environmental Health Group, Policy, Standards and Quality Assurance Unit at 512-834-6770. Privies shall be maintained in a manner to prevent access by flies and animals, to prevent fly breeding, and to prevent contamination of any water supply.

(o) Availability of toilet tissue. Toilet tissue shall be available at all times for each toilet or privy seat.

(p) Lighting and ventilation in toilet and bathing facilities. All permanent toilets and bathing structures shall be adequately ventilated and properly lighted.

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(q) Potable water supply required. Camps shall ensure that all water used for ingestion comes from a TCEQ approved potable water source that meets all applicable standards of 30 Texas Administrative Code (TAC), Chapter 290, Public Drinking Water, Subchapter D, Rules and Regulations for Public Water Systems, as amended.

(r) Private water wells at youth camps. Camps utilizing a private well system for water must have written confirmation from the TCEQ that the water quality meets 30 TAC, Chapter 290, Public Drinking Water, Subchapter F, Drinking Water Standards Governing Drinking Water Quality And Reporting Requirements For Public Water Systems, as amended. The written confirmation must be given to a department representative upon request.

(s) Disposal of youth camp wastewater. All camp wastewater must be disposed of into a community sanitary sewage system or an approved On-site Sewage Facility in accordance with 30 TAC, Chapter 285, On-Site Sewage Facilities. In remote areas, the use of chemical toilets or pit privies is allowed, if the facilities are built and maintained in accordance with manufacturer designs or the Texas Community Sanitation Handbook.

(t) Disposal of solid waste. Solid wastes shall be disposed of at a TCEQ approved sanitary landfill or other disposal facility approved by TCEQ under 30 TAC, Chapter 330, Municipal Solid Waste.

(u) Permanent food preparation, storage and service areas. Permanent food preparation, storage and service areas must be maintained in compliance with 25 TAC, Chapter 229, Subchapter K, §229.161 et seq, Texas Food Establishments, as amended. Items inspected may include, but are not limited to:

- (1) proper cooling for cooked/prepared food;
- (2) proper cooking temperatures;
- (3) proper/adequate hand washing and good hygienic practices;
- (4) approved source/labeling;
- (5) proper handling of ready-to-eat foods;
- (6) cross-contamination of raw/cooked foods/other;

(7) approved systems (Hazard Analysis and Critical Control Points (HACCP) plans/time as public health control);

- (8) hot and cold water under pressure;

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- (9) hand wash facilities adequate, accessible, and with soap and towels;

- (10) evidence of insect contamination;
- (11) toxic items properly labeled/stored/used;
- (12) manual or mechanical ware washing and sanitizing;
- (13) food contact surfaces of equipment and utensils cleaned/sanitized/good repair; and
- (14) consumer advisories posted (Heimlich, raw shellfish warning, buffet plate).

§265.14. Primitive or Wilderness Camp.

(a) Maintenance and operation of primitive campsites. Primitive campsites shall be maintained and operated in a safe and healthful manner.

(b) Drinking water at primitive camp, on hikes, or on trips away. Drinking water used at primitive camps and on hikes and trips away from permanent campsites shall be from a source known to be safe or shall be rendered safe.

(c) Toilet facilities at primitive campsites. Primitive campsites that are not provided with approved toilet facilities shall have a separate toilet area designated for each sex. Slit trenches or cat holes with a readily available supply of clean earth backfill or other disposal methods approved by the department's Policy, Standards, and Quality Assurance Unit, shall be utilized for the disposal of human excreta in these areas. Approval must be received in writing prior to implementation. Toilet areas shall be located at least 150 feet from a stream, lake, or well, and at least 75 feet from a campsite, tent, or other sleeping or housing facility.

(d) Disposal of solid wastes at primitive campsites. Solid wastes that are generated in primitive camps shall be disposed of at a TCEQ approved sanitary landfill or other disposal facility approved by TCEQ under 30 TAC, Chapter 330, Municipal Solid Waste.

(e) Food service at primitive campsites. Only foods that can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

(f) Use of hot water and detergent to wash food utensils. Hot water and detergent shall be used to wash all food utensils after each meal at primitive campsites.

(g) Supervision of campers at primitive camps. Campers utilizing primitive camps shall be adequately supervised at all times by a responsible adult who is knowledgeable concerning proper wilderness camping techniques. A minimum of one such supervising adult for each ten

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campers shall be maintained in the immediate vicinity (within sight and/or hearing) of the campers.

§265.15. Medical and Nursing Care.

(a) Record of an on-call physician required. Documentation shall be kept on file of a physician licensed to practice in Texas who is available to be on call at all times to advise health service personnel on all first aid and nursing services provided by the camp.

(b) Emergency transportation. Transportation must be available at all times to transport any sick or injured camper in an emergency.

(c) Medical staffing requirements. A physician, registered nurse, licensed vocational nurse, or a person with an American Red Cross Emergency Response certificate, or its equivalent, shall be in the camp and on call at all times, and will be considered the Camp Health Officer. For camps having documented evidence, such as a letter from the local emergency medical services (EMS), that the camp is located within a 20 minute community EMS response time, a person certified in American Red Cross Community First Aid and Safety, or its equivalent, shall be in the camp and on call at all times, and will be considered the Camp Health Officer.

(d) Requirement to report incidents of abuse or neglect of a minor. If a person, including any member of camp staff, a camp counselor, or camp director has cause to believe that a minor has been or may have been abused or neglected as those terms are defined in the Texas Family Code, Chapter 261, then that person shall immediately make a report, in accordance with Family Code, §261.101(a) to the department's Policy, Standards and Quality Assurance Unit, as required by §261.103(a)(3). The report can be made by telephone (512-834-6770), by fax (512-834-6707), or by email (the current email address may be found at [www.dshs.state.tx.us/beh/gs/youth.htm](http://www.dshs.state.tx.us/beh/gs/youth.htm)). A report must be made to the department and may be made to a local or state law enforcement agency or other agency listed in Family Code, §261.103.

(e) Requirement to report camper death or communicable diseases. Camper death or confirmed cases of waterborne or foodborne diseases, such as cholera, dysentery, typhoid, salmonellosis, shigellosis, or infectious hepatitis, shall be reported to the department's Policy, Standards, and Quality Assurance Unit, within 24 hours of occurrence (or confirmation in the case of disease) by fax (512-834-6707), or email ([www.dshs.state.tx.us/beh/gs/youth.htm](http://www.dshs.state.tx.us/beh/gs/youth.htm)).

(f) Designation of a first aid area. A first aid area, used exclusively to handle health and emergency cases, shall be designated and suitably equipped.

(g) Isolation of a child with a communicable disease. A child ill with a confirmed or suspected case of a communicable disease shall be isolated to provide safety to other children

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and quiet to the patient. Any child that is isolated shall be supervised as determined by the Camp Health Officer.

(h) Bound medical log required. A bound medical log, or other unalterable record keeping system, listing date, name of the patient, ailment, name of the Camp Health Officer, and the treatment prescribed shall be kept in the first aid area for the duration of the camp year for which the license is issued.

(i) Camper health records shall be kept on file. The first aid area shall keep a health record on each child with the child's name, allergies, immunizations, parent's name, address, and telephone number, and parent or guardian authorization for emergency medical care.

(j) Availability of an emergency telephone. The camp shall have a telephone readily available, preferably in the first aid area, for emergency use.

(k) Emergency plans required. A written plan of procedures to be implemented in case of a disaster, serious accident, epidemic, or fatality shall be formulated and posted in the camp's administrative on-site office or location. All camp staff and volunteers must be made aware of this plan during the staff-training program or volunteer briefing. Documentation of this training must be kept at the camp's administrative on-site office or location.

(l) Storing and dispensing prescription medication to campers. If a child is taking a prescription medication when he or she reports to camp, the medication must be in the original container with the prescription label, and the medical staff shall place that medication in a lockable cabinet or other secure location that is not accessible to campers. The medication shall be administered by the Camp Health Officer or camp counselor, if authorized in writing by the Camp Health Officer. At no time will the child be allowed to self-administer the medication without adult supervision.

(m) Camp trip first aid kits. First aid kits shall be taken on all out-of-camp trips.

#### §265.16. Waterfront Safety.

(a) Adult waterfront director required at youth camps. An adult waterfront director, who holds a current lifeguard certificate or its equivalent, shall be in charge of all waterfront activities. While waterfront activities are in progress, the waterfront director or an adult certified lifeguard assistant shall be in the immediate vicinity (within sight and/or hearing) of the campers, supervising the program.

(b) Responsibilities of the waterfront director. The waterfront director is to be responsible for all waterfront supervision procedures and is responsible for ensuring that the

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waterfront procedures are strictly enforced. The waterfront staff shall not engage in personal recreational swimming, boating or any other waterfront activity while on waterfront duty. For every 35 campers, or fraction thereof, engaged in waterfront activities, there shall be one certified lifeguard and one additional person (either a certified lifeguard or trained adult lookout)

on duty. Camps utilizing natural bodies of water such as rivers, lakes, or creeks may need to increase this ratio.

(c) Maintenance and operation of swimming areas. Swimming areas shall be maintained and operated in a safe and clean condition. Youth camp swimming pools are class C pools, and must be built, operated, and maintained in accordance with 25 TAC, Chapter 265, General Sanitation, Subchapter L, Standards for Public Pools and Spas.

(d) Camper's swimming ability must be determined. Camps shall test to determine each child's swimming ability. Children shall then be confined to the limits of swimming skills for which they have been classified. Also, the swimming area shall have areas for non-swimmers, intermediates, and swimmers clearly marked.

(e) Checking bathers in and out of the water. A method of checking bathers in and out of the water shall be established and enforced.

(f) Waterfront lifesaving equipment shall be provided. Lifesaving equipment suitable for the waterfront activity shall be provided at the waterfront activity area and placed so the equipment is immediately available in case of an emergency.

(g) Providing a personal flotation device. A Coast Guard approved Personal Flotation Device (PFD) shall be readily available for each occupant of a watercraft. Each occupant of a watercraft 12 years of age and under shall wear a United States Coast Guard (USCG) approved inherently buoyant Type II PFD, or Near-Shore Buoyancy Vest at all times while in the watercraft. A non-swimmer shall wear a USCG approved inherently buoyant Type II PFD, or Near-Shore Buoyancy Vest and not be permitted in a watercraft unless accompanied by a counselor. A camper shall wear a vest type USCG approved preserver before entering and while in white water or before entering and while on a lake when the water is rough or while waterskiing.

(h) Location of swimming areas. Swimming areas shall be used exclusively for swimming while swimming is occurring. A watercraft docking area shall not be allowed in the swimming area and waterskiers shall not launch, cross, or stop in the swimming area while swimming is occurring.

#### §265.17. Program Safety and Equipment.

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(a) Firearm or pellet gun programs at youth camps. A firearm or pellet gun program shall be conducted on a range that meets or exceeds the specifications outlined by the National Rifle Association or its equivalent. Safety procedures shall be enforced whenever the range is in use. The range shall be conspicuously marked and configured to prevent entry of campers onto the range while it is in use.

(b) Archery program at youth camps. An archery program shall be conducted on a range that meets or exceeds the specifications outlined by the National Field Archery Association or its equivalent. The archery range shall be conspicuously marked and configured to prevent entry of campers onto the range while it is in use.

(c) Program equipment condition and use. Equipment used in all programs shall be kept in good condition and present no hazard as a result of poor condition to the user at any time.

(d) Storage of firearms, pellet guns, and archery equipment when not in use. Firearms, pellet guns, ammunition, and archery equipment shall be kept in a secured area when not in use.

(e) Safety and maintenance of tools used by campers. All tools, including power tools, used by campers shall be maintained in good repair, shall have the necessary safety guard attached, and shall be used only under supervision.

(f) Horseback riding programs. Camps providing horseback riding programs shall require the head instructor or director of the program to follow the camp's riding program and safety procedures outlined in a written document. This document shall include the following:

- (1) procedures to be followed in the event of an accident;
- (2) procedures to determine each horse's suitability for safe use;
- (3) proper care of tack and equipment;
- (4) proper procedure for mounting;
- (5) the number of riders per supervisor, and

(6) any other information that is specific to the camp's equestrian program or is helpful to the horseback riding director.

(g) Record keeping and care of horses. Camps providing horseback riding programs shall:

- (1) ensure that horses that are in use are sound and in good physical condition;

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- (2) ensure that the stable area is kept clean and free of all hazards; and
- (3) require all riders (campers and instructional staff) to wear hardhats.

(h) Adventure/challenge courses. Camps providing an adventure/challenge program utilizing belaying, spotting, or non-spotting elements must:

(1) designate a certified adventure/challenge program manager, who shall be in attendance whenever the adventure/challenge program is operating;

(2) ensure that the adventure/challenge program is operated and maintained in a safe manner;

(3) develop a set of site-specific policies and procedures, which establish criteria for all adventure/challenge operations, including equipment used and safety precautions;

(4) ensure that spotters and belayers are instructed in the proper procedures prior to assuming their duties, and that they are directly supervised until competency is demonstrated;

(5) establish a method to control access to the equipment and the activity area in order to prevent use by unauthorized or unsupervised campers;

(6) perform safety checks of all equipment and ropes prior to each use and maintain a record of all inspections and maintenance;

(7) provide a safety orientation for each camper prior to allowing the camper to engage in adventure/challenge activities;

(8) ensure that all campers engaged in adventure/challenge activities are wearing appropriate personal protective equipment; and

(9) provide documentation of an annual physical inspection of the adventure/challenge course and equipment by an insured third party inspector.

#### §265.18. Fire Prevention.

(a) Fire and safety codes. Facilities at all youth camps shall meet local fire and safety codes.

(b) Fire exits in buildings. All buildings in which groups of people live, eat, sleep, or assemble shall be provided with ready exits for use in case of fire and these exits shall be conspicuously marked.

#### **§§265.18 - 265.21**

(c) Disaster and evacuation procedures. All youth camps that provide permanent or semi-permanent structures for group living, eating, sleeping, or assembly shall have disaster and evacuation procedures outlined in writing. These procedures shall be reviewed by the staff with specific assignments made to each staff member and counselor. All campers shall be instructed as to their actions in the event of fire, disaster, or the need to evacuate.



(d) Storage of flammable or explosive materials. Containers of gasoline, flammables, or explosives shall be plainly marked and stored in a locked area separate and apart from any and all permanent and semi-permanent structures used by campers. The presence of such materials shall be kept to a minimum.

§265.19. Maintenance and Safe Use of Motor Vehicles.

(a) Inspection of vehicles used for transportation of campers. Any vehicle used for transporting children on public roadways must have all current and applicable Department of Public Safety vehicle inspections.

(b) First aid kits in vehicles transporting campers or staff. Every vehicle used for transporting staff or campers off site shall be equipped with a first aid kit and emergency equipment such as fire extinguishers, tools, and flares.

(c) Drivers shall have a valid driver's license. All drivers must be adults and hold a valid driver's license appropriate for the type of vehicle being driven.

§265.20. Farm and Domestic Animals.

(a) Location of animals. Horses and other animals maintained at any camp shall be quartered at a reasonable distance from any sleeping, living, eating, or food preparation area.

(b) Location of stables or corrals. Stables and corrals shall be located so as to prevent contamination of any water supply. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

(c) Animals in waterfront areas prohibited. Horses, dogs, or other domestic animals or pets shall not be permitted on a bathing beach or in the water near the beach when in use for waterfront activities.

(d) Rabies vaccinations of animals. All dogs and cats owned or under the supervision of anyone on the camp premises shall be currently vaccinated against rabies in compliance with Health and Safety Code, §826.021. Evidence of vaccination must be provided to a department representative upon request.

§265.21. Insect and Rodent Control.

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(a) Prevention of insect, rodent or other pest infestations. The camp management shall maintain every building used or intended for human habitation in a manner to keep it free from insects, rodents, and other pests.

(b) Storage of chemical control agents. Chemical control agents, insecticides, rodenticides, and other hazardous chemicals shall have the containers plainly marked and be

stored in a locked area not accessible to campers. The presence of such chemicals shall be kept to a minimum.

§265.22. Nudity Prohibited. A youth camp may not allow campers or staff to be nude except when bathing, showering, changing clothing, or receiving medical care.

§265.23. Application for a New License.

(a) License required. A person must possess a valid youth camp license prior to operating a youth camp. An application is made by submitting a completed youth camp application and paying the license fee. A blank application may be obtained by calling the Professional Licensing and Certification Unit at 512-834-6770, or may be downloaded from the website at [www.dshs.state.tx.us/beh/g/youth.htm](http://www.dshs.state.tx.us/beh/g/youth.htm). All applications may be mailed to the Professional Licensing and Certification Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756.

(b) Processing applications. All applications will be processed promptly after the completed application form and fees are received. Those who submit incomplete applications will be notified either by telephone or in writing as soon as possible.

(c) Qualifying for a youth camp license. The department shall determine if the facility meets the definition of a Youth Camp as described in §265.11(20) of this title (relating to Definitions) and the definition of "Youth camp, general characteristics of:" in §265.11(21) of this title. If the facility does not qualify for a license, the application will be denied and the license fee, less a handling fee of \$50, refunded. If an application is denied because the facility does not meet the definition of a youth camp, the applicant should determine if a license from another agency is required.

§265.24. Application for a Renewal License.

(a) Renewal of a youth camp license. A person holding a license under the Act must renew the license annually from the date of issuance.

(b) Renewal notice. At least 30 days before a license expires the department, as a service to the licensee, shall send a renewal notice to the licensee or registrant, by first-class mail to the last known address of the licensee. It remains the responsibility of the licensee to keep the

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department informed of their current address and to take action to renew their certificate whether or not they have received the notification from the department. The renewal notice will state:

- (1) the type of license requiring renewal;
- (2) the time period allowed for renewal; and

(3) the amount of the renewal fee.

(c) Renewal requirements. All renewal applications and fees shall be submitted to the department prior to the license's annual expiration date and shall be mailed to the Professional Licensing and Certification Unit, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756. The department will renew the license if the applicant meets the standards in these sections, meets the definition of a "Youth camp" as described in §265.11(20) of this title (relating to Definitions) and the definition of "Youth camp, general characteristics of:" in §265.11(21) of this title, submits a complete renewal application on the prescribed form along with all required documentation, pays the required fee, and has complied with all final orders resulting from any violations of these sections.

(d) Non-renewal. The department may decide not to renew a license unless the applicant has complied with all final orders resulting from any violations of these sections.

(e) Opportunity for a hearing. When the department proposes to deny an initial or renewal application, it will give notice of the proposed action in writing and will provide information on how to request an administrative hearing. The applicant must make a written request for a hearing within 30 days from the date on the notice letter sent by the department.

#### §265.25. Inspections.

(a) Inspections and corrections. An employee or agent of the department may enter any property for which a license is issued in accordance with the Act, property for which a license application to operate a youth camp is pending, or property on which a youth camp is operating without a license to investigate and inspect conditions relating to the health and safety of the campers. An employee or agent of the department who enters a youth camp to investigate and inspect conditions shall:

(1) notify the person in charge of the camp of the inspector's presence and shall present proper credentials;

(2) notify the person in charge of the camp or the person's designee of any violations as they are discovered; and

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(3) allow the camp to correct the violations while the investigation and inspection is occurring.

(b) Investigation or inspection may not be delayed. An employee or agent of the department may not extend or delay an investigation or inspection in order to allow the youth camp to correct a violation noted during the investigation or inspection.

(c) Interference with an inspection. A department representative in pursuance of his/her official duties is not required to seek permission to conduct inspections or investigations. It is a violation of the Act for a person to interfere with, deny, or delay an inspection or investigation conducted by a department representative.

#### §265.26. Civil Penalties and Injunctions.

(a) A person violating the Act or a rule or order adopted under the Act is subject to a civil penalty of not less than \$50 or more than \$1,000 for each act of violation.

(b) If it appears that a person has violated, is violating, or is threatening to violate the Act or a rule or order adopted under the Act, the department may bring a civil action in a district court for injunctive relief, a civil penalty; or both.

(c) The district court, upon finding that the person is violating the Act, or a rule or order adopted under the Act, shall grant injunctive relief, assess a civil penalty, or both, as warranted by the facts.

(d) The department may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that a person is:

(1) violating or threatening to violate the Act or a rule or order adopted under the Act; or

(2) taking any other action that creates an emergency condition that constitutes an imminent danger to the health, safety, or welfare of campers, staff or visitors at a youth camp.

(e) An action under this section may be brought in the county in which the defendant resides or in which the violation or threat of violation occurs.

(f) If an action for injunctive relief under this section is granted by the court, the court may grant any prohibitory or mandatory injunction warranted by the facts, including temporary restraining orders, temporary injunctions, and permanent injunctions. The court shall grant injunctive relief without a bond or other undertaking by the department.

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(g) An appellate court shall give precedence to an action brought under this section over other cases of a different nature on the docket of the court

#### §265.27. Revocation, Administrative Penalties, and Hearings.

(a) License revocation.

(1) If the department finds that a violation of the Act or of a rule has occurred or is occurring at a youth camp for which a license has been issued, the department shall give written notice to the licensee setting forth the nature of the violation and demanding that the violation cease.

(2) The department may initiate proceedings to revoke the license if the licensee fails to comply with the notice to cease in the time and manner directed in the notice.

(b) Assessment of an administrative penalty. The Commissioner may assess an administrative penalty if a person violates the Act, a rule of the department, or an order of the commissioner issued under the Act or rules.

(c) Determination of the penalty amount. In determining the amount of the penalty, the commissioner shall consider:

- (1) previous compliance history;
- (2) the seriousness of the violation;
- (3) any hazard to public health and safety;
- (4) the person's demonstrated good faith; and
- (5) any other matters as justice may require.

(d) Administrative penalty limits. The administrative penalty may not exceed \$1,000 a day for each violation. Each day a violation continues may be considered a separate violation.

(e) Opportunity for a hearing. Prior to revoking a license or assessing an administrative penalty, the department shall give the person charged an opportunity for a hearing. The hearing shall be conducted in accordance with the Act, and the department's fair hearing procedures in 25 TAC §1.41, et seq.

(f) Violation severity levels. Violations shall be categorized into severity levels I, II, and III. Administrative penalties may be imposed for:

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(1) Critical violations. Severity level I violations have or could have a direct or immediate negative effect on the health, safety, and welfare of campers or the operation and management of a youth camp. These violations are assessed at \$750 - \$1,000 per violation per day. Examples of severity level I violations include, but are not limited to:

- (A) operating a youth camp without a current license;
- (B) failing to report an incident of camper abuse or neglect of a camper as required;

(C) providing drinking water from an unapproved source;

(D) policies or procedures not being followed in a way that has a direct negative impact on camper health or safety;

(E) unqualified or insufficient number of personnel staffing operations or activities;

(F) criminal conviction and sex offender records not on file;

(G) sexual abuse training and exam records not on file; and

(H) interfering with, denying, or delaying an inspection or investigation conducted by a department representative.

(2) Serious violations. Severity level II violations are those that could threaten the health, safety, and welfare of campers or the operation and management of a youth camp. These violations are assessed at \$500 - \$750 per violation per day. Examples of severity level II violations include, but are not limited to:

(A) written personnel practices and policies regarding camp and staff are not available as required;

(B) staff members not informed regarding personnel and camp practice policies;

(C) proper sanitation of all food utensils not achieved;

(D) policies or procedures not being followed in a way that could threaten the health, safety, and welfare of campers or the operation and management of a youth camp;

(E) swimming areas not maintained in clean condition; or

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(F) disaster and/or fire evacuation procedures are not posted properly.

(3) Significant violations. Severity level III violations are those of concern that if left uncorrected could lead to more serious circumstances. These violations are assessed at \$250 - \$500 per violation per day. Examples of severity level III violations include, but are not limited to:

(A) toilets and bathing facilities not adequately lighted and ventilated;

(B) docking and waterskiing permitted in the swimming area;

(C) vehicles used to transport staff or campers not equipped with a first aid kit;

(D) policies or procedures not being followed in a way that if left uncorrected could lead to more serious circumstances; and

(E) unauthorized nudity allowed.

§265.28. Fees.

(a) The schedule of annual fees is as follows:

(1) initial license day youth camp -- \$250;

(2) initial license residential youth camp -- \$750;

(3) renewal license day youth camps operating less than 10 days per year -- \$50;

(4) renewal license day youth camps operating 10 or more days per year -- \$150;

(5) renewal license residential youth camps operating less than 10 days per year -- \$100; and

(6) renewal license residential youth camps operating 10 or more days per year -- \$450.

(b) Applicants may submit applications and renewal applications for a license under these sections electronically by the Internet through Texas Online at [www.texasonline.state.tx.us](http://www.texasonline.state.tx.us). The department is authorized to collect fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through Texas Online.

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(c) A current license shall only be issued when all past due fees and late fees are paid.

(d) All fees are non-refundable, except as specifically noted in these rules.

(e) All fees shall be submitted in the form of personal checks, certified checks, money orders, or checks from state agencies, municipalities, counties, or other political subdivisions of the state made payable to the department.

§265.29. Youth Camp Committees.

(a) Advisory committee.

(1) Committee appointment. The executive commissioner or his designee shall appoint a committee to:

(A) advise the executive commissioner in the development of standards and procedures;

(B) make recommendations to the executive commissioner regarding the content of the rules adopted to implement the Act; and

(C) perform any other functions requested by the executive commissioner in the implementation and administration of the Act.

(2) Advisory committee membership. The advisory committee shall not exceed nine members. At least two members shall be from the general public, and seven members shall be experienced camping professionals who represent the camping communities of the state and should reflect the geographic diversity of the state in proportion to the number of camps licensed by the department in each geographic area of the state.

(3) Filling a vacancy on the advisory committee. Any vacancy on the advisory committee will be filled by the executive commissioner or his designee in the same manner as other appointments to the advisory committee.

(4) Annual meeting required. The advisory committee will meet annually and at the call of the executive commissioner or his designee.

(b) Training advisory committee.

(1) Training advisory committee appointment. The commissioner or his designee shall appoint a training advisory committee to advise the department and the executive commissioner in the development of criteria and guidelines for the training and examination

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(2) Training advisory committee membership. The training advisory committee consists of not more than nine members including at least two members who represent the general public; and other members, who include experienced camping professionals representing the camping communities of this state, representatives of youth camps selected by the department, and representatives of the Council on Sex Offender Treatment established under Occupations Code, Chapter 110.

(3) Filling a vacancy on the training advisory committee. Any vacancy on the training advisory committee will be filled by the department in the same manner as other appointments to the training advisory committee.

(4) Meetings. The advisory committee shall meet at the call of the commissioner.



(c) Both committees.

(1) Staggered terms of service. Committee members shall serve for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year.

(2) Adoption of committee rules of conduct and election of officers. The committee may adopt rules for the conduct of its own activities and may elect from among its members a chairperson, a vice-chairperson, and a secretary.

(3) Committee quorum. A simple majority of the members of the committee who are statutorily required to be appointed shall constitute a quorum for the purpose of transacting official business.

(4) Committee meetings announced. The committee is not a “governmental body” as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the committee shall be announced and conducted in accordance with the Texas Government Code, Open Meetings Act, Chapter 551.

(5) Compensation or reimbursement of expenses. A committee member may not receive compensation or reimbursement of expenses for serving on a youth camp committee.